

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIANNE W. CANTOR and RICHARD CANTOR,

Plaintiff,

Civil Action No.:

-against-

NOTICE OF REMOVAL

AMF BOWLING CENTERS, INC. d/b/a, BOWLMOR
CHELSEA PIERS, CHELSEA PIERS MANAGEMENT
INC., CHELSEA PIERS L.P., and BOWLERO SPORTS &
ENTERTAINMENT HOLDINGS d/b/a BOWLMOR,

Defendant-Petitioner.

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TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Defendant-Petitioner, AMF BOWLING CENTERS INC. (i/s/h/a AMF BOWLING
CENTERS, INC. d/b/a, BOWLMOR CHELSEA PIERS), files this notice to remove the foregoing
case to the United States District Court for the Southern District of New York and respectfully
shows this Court:

1. A civil action was originally commenced in the Supreme Court of the State of New
York, County of New York on December 10, 2019, in which the above-named individuals,
Marianne W. Cantor and Richard Cantor, are the plaintiffs and the petitioner, AMF Bowling Centers
Inc. (i/s/h/a AMF Bowling Centers, Inc. d/b/a, Bowlmor Chelsea Piers), is the defendant. Annexed
hereto as **Exhibit “A”** is a copy of the Summons and Complaint. The action was entitled Marianne
W. Cantor and Richard Cantor v. AMF Bowling Centers Inc. d/b/a Bowlmor Chelsea Piers,
Chelsea Piers Management Inc., Chelsea Piers L.P., and Bowlero Sports & Entertainment
Holdings d/b/a Bowlmor, and was assigned state court Index Number 161905/2019. See **Exhibit
A**.

2. In said action, plaintiff claims that on September 14, 2017, she was caused to be injured when engaged in the laser tag activity at the premises located at Chelsea Piers-Pier 60 in New York due to the purported negligence of the defendant. **Id.** Plaintiff's Complaint did not include the amount of damages sought. **Id.**

3. Plaintiffs and defendants executed several Stipulation Extending Time to Answer, dated January 13, 2020, March 11, 2020, and May 1, 2020, copies of which are collectively annexed hereto as **Exhibits "B", "C" and "D"**, respectfully.

4. On June 30, 2020, the parties entered into a Partial Stipulation of Discontinuance Without Prejudice, whereby plaintiff's discontinued against defendants Chelsea Piers Management Inc., Chelsea Piers L.P., and Bowlero Sports & Entertainment Holdings d/b/a Bowlmor. *See* **Exhibit "E."**

5. On August 18, 2020, defendant served an answer, a copy of which is annexed as **Exhibit "F."** With its answer, defendant served a Demand for a Verified Bill of Particulars, Combined Demands, and a Demand for Ad Damnum, copies of which are collectively annexed as **Exhibit "G."**

6. Plaintiff's counsel then emailed defendant that their ". . . demand will be substantially higher than 75K." Annexed hereto as **Exhibit "H"** is plaintiff's email response satisfying defendant's Demand for Ad Damnum. Accordingly, the amount in controversy in this suit is in the excess, exclusive of interests and costs, of \$75,000. As plaintiff's response to the demand was provided on September 29, 2020, and qualifies as an "other paper" from which it may be first ascertained that the case has become removable, this motion is timely made pursuant to 28 U.S.C. § 1446(b)(1).

7. This action is one of which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441. There is diversity of citizenship between the plaintiff and the defendant.

8. Pursuant to plaintiff's Complaint in the State Court action, plaintiffs, Marianne W. Cantor and Richard Cantor, were residing in the State of New York, County of Westchester. *See* Complaint, **Exhibit A**.

9. Defendant-Petitioner was and continues to be a corporation organized and existing under the laws of the State of Virginia and having its principal place of business in Virginia, 7313 Bell Creek Road, Mechanicsville, Virginia. Accordingly, Defendant-Petitioner is a citizen of the State of Virginia. *See* 28 U.S.C. § 1332(c)(1).

10. The non-diverse parties, Chelsea Piers Management Inc., Chelsea Piers L.P., and Bowlero Sports & Entertainment Holdings d/b/a Bowlmor, were discontinued from the action in a partial stipulation of discontinuance. *See* **Exhibit D**.

11. Since the action is venued in New York County Supreme Court, removal to the United States District Court for the Southern District of New York is proper.

12. Written filing of this motion will be given to the plaintiff promptly after the filing of this motion, as is required by law.

13. A true and correct copy of this motion will be filed with the Clerk of the Supreme Court of the State of New York, Suffolk County promptly after the filing of this motion, as is required by law.

14. There have been no court conferences to date.

15. By filing this Notice of Removal, Defendant-Petitioner does not waive any defense which may be available to them, specifically including, but not limited to, their right to contest in

personam jurisdiction over the Defendant-Petitioner, improper service of process upon the petitioner, and the absence of venue in this Court or in the court from which the action has been removed.

WHEREFORE, petitioner prays that this action proceed in this Court as an action properly removed thereto.

Dated: White Plains, New York
October 27, 2020

Yours etc.,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By:



John Hsu
Attorneys for Defendants
AMF BOWLING CENTERS, INC. (i/s/h/a
AMF BOWLING CENTERS, INC.
d/b/a, BOWLMOR CHELSEA PIERS)
1133 Westchester Avenue
White Plains, New York 10604
(914) 323-7000
File No. 11033.00201

To: FELLOWS HYMOWITZ, PC
Attorneys for Plaintiffs
254 South Main Street, Suite 500
New City, New York 10956
(845) 639-9300